IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No.808 of 1992

Date of Decision: 28.3.2007

Jaswant Singh .....Petitioner

Versus

State of Punjab .....Respondent

CORAM: HON'BLE MR. JUSTICE MEHTAB S. GILL

Present: Mr.Karambir Singh Kahlon, Advocate
for Mr.D.S.Pheruman, Advocate
for the petitioner.

Mr.S.S.Randhawa, Sr.DAG, Punjab.

MEHTAB S. GILL J.

This is a revision petition against the judgment dated 25.11.1992 of the learned Additional Sessions Judge, Amritsar, whereby he convicted Jaswant Singh son of Jaimal Singh under Section 25 of the Arms Act and sentenced him to undergo one year R.I.and to pay a fine of Rs. 500/-, in default to undergo RI for one month.

The case of the prosecution is that on 16.9.1987 a police party headed by Inspector Balbir Singh raided the house of the petitioner in the area of Krishna Nagar, Amritsar. Petitioner was found manufacturing country made pistol(Ex.P46) of 303 bore and pistol (Ex.P45) also of 303 bore. Live cartridges Ex.P23 to Ex.P25 were also recovered. Site plan Ex.PD was prepared and the pistol and cartridges were taken into possession vide memo Ex.PC.

Prosecution to prove its case brought into the witness box Manohar Lal Clerk as PW1, Balbir Singh Inspector as PW2 and Baldev Singh ASI as PW3.

Learned counsel for the petitioner/accused has argued that no independent witness was asked to join the raiding party. Conviction of the petitioner cannot be sustained on the basis of statements of only the official witnesses. Chanan Singh(DW1)stated, that he was present at the time when the raid was conducted, but nothing was recovered from the petitoner. Petitioner was taken to the police station where a false case was planted on him. There are material discrepancies in the statements of the official witnesses.

Learned counsel for the State has argued that the recovery is of the year 1987. Those were the days of terrorism when no independent witness was ready to be seen in the company of police officials. Though Chanan Singh(DW1) has come into the witness box and stated that nothing was recovered from the petitioner, but we cannot overlook this fact that Chanan Singh belongs to the village of the petitioner and has come only to put up a false plea.

I have heard learned counsel for the parties and perused the impugned judgment and the record with their assistance.

The testimony of Inspector Baldev Singh(PW2), ASI Baldev Singh(PW3) is cogent and convincing. They have corroborated each other inter se and also corroborated the FIR. Manohar Lal Clerk(PW1) has stated, that prior sanction was obtained from the District Magistrate, before prosecuting the petitioner.

Learned counsel for the State has rightly argued, that

non joining of independent witness was because of the disturbance in the law and order. No person wanted to be seen in the company of the police. The official witnesses did not have any motive to falsely implicate the petitioner, nor has there been any suggestion put that the police officials had some sort of a grudge or enmity with the petitioner. Chanan Singh(DW1) has come to the witness box solely for the purpose of putting up a false story to save the petitioner.

I do not find any infirmity in the judgment of the learned Additional Sessions Judge, Amritsar. Conviction of the petitioner is maintained.

Recovery is of the year 1987. Revision in this court is pending since 1992. The sword of conviction is hanging over the head of the petitioner for the last 20 years. This itself is a punishment. Sentence of the petitioner is modified to that already undergone.

With the above modification in sentence, revision petition is dismissed.

(MEHTAB S. GILL)
JUDGE

March 28, 2007
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